IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Central Excise Appeal No.221 OF 2006.

The Commissioner of Central
Excise, Daman ..Appellant

versus

Biochem Pharmaceutical Industries
..Respondent.

Mr.P.S.Jetly with Mr.Y.R.Mishra and Mr.H.P.Chaturvedi for the Appellant.

Mr.Pushkar Patankar for the Respondent.

Coram : F.I.Rebello &
S.R.Sathe, JJ.
Dated : 16th August, 2007

P.C.

1. Revenue has approached this Court against the order of the Tribunal dated 25.1.2006. By that order the Tribunal has held that it was not open to the authority to have ordered deposit of the refund in the Consumer Welfare Fund.

2. The Respondent herein had collected excise from the customers and had wrongly paid it under mistake of law to the appellants which is admitted. Subsequently, the respondents have paid the equivalent amount to the State Excise alongwith interest.

3. Once that has been done, it was not open to the appellants to have retained the money or have transferred it to the Consumer Welfare Fund.

4. Considering the above, in our opinion no question of law arises and consequently the appeal is dismissed.

(F.I.Rebello, J.)

(S.R.Sathe, J.)